IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 7778 of 2007(A)

AGAINST THE ORDER hj IN IA 2040 & 2041/2006 IN OS.81/2000 of III ADDL.SUB COURT, KOZHIKODE
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PETITIONER:

THE DHANALEKSHMI BANK LTD.,
CALICUT BRANCH, RAM MOHAN ROAD,
KOZHIKODE REP.BY ITS MANAGER & PRINCIPAL OFFICER.

BY ADV. SRI.P.JACOB VARGHESE,SC,DHANALAKSHI BANK

RESPONDENTS:
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1. V.G.SANDHYA RAJAN,
W/O.N.RAJAN, RESIDING AT "SRANYA",
CHEROOTTY NAGAR HOUSING COLONY, KOZHIKODE.

2. N.RAJAN, RESIDING AT "SARANYA",
CHEROOTTY NAGAR HOUSING COLONY, KOZHIKODE.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF DECREE DTD.27.2.01 IN OS 81/00 OF SUB COURT, KOZHIKODE.**

EXT.P2 **TRUE COPY OF JUDGMENT IN WPC 23497/06 OF THIS COURT.**

EXT.P3 **TRUE COPY OF COMMON ORDER DATED 13.12.06 IN I.A.2040/06 AND 2041/06 IN O.S.81/07 OF 3RD ADDL.SUB JUDGE, KOZHIKODE.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 7778 OF 2007

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Dated this the 27th day of June, 2007.

J U D G M E N T

This writ petition is filed by the decree holder, Bank to set aside the order of the Subordinate Judge's Court, Kozhikode in I.A.2040/06 and I.A.2041/06. As per the original decree the plaintiff was given a decree for realisation of the amount with 14% interest per annum with quarterly rests. Thereafter, this application is filed after a lapse of 3 years for re-consideration of the matter and the learned Subordinate Judge granted a reduced rate of interest at 6% per annum from the date of suit till the date of realisation. Aggrieved by the said decision the Bank has come up with this writ petition.

2. I am not going into the minute details or legal decisions in this case. But considering the factum that the amount was advanced for the purpose of a house loan and that the amount has been paid at the rate of 6% interest by the respondent I feel there can be a concession given to the respondent before me but not to the extend which the Subordinate Judge has given. Banks are also industries existing

on public money and they are also accountable and answerable and therefore a minimum interest of 9% has to be given in these types of transactions. Therefore, the order passed by the learned Subordinate Judge is modified and the rate of interest is enhanced from 6% to 9% from the date of suit till realisation and since the interest at the rate of 6% is paid, the respondents herein is given two months time to pay the balance and settle the whole transaction. I make it very clear that I am not expressing any opinion on merits and other legal issues involved in this case. It is also made clear that this concession shall not be treated as a precedent.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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